



Australian Government

IP Australia

29 May 2009

Spruson & Ferguson
GPO Box 3898
SYDNEY NSW 2001
Australia

Discovery House, Phillip ACT 2606
PO Box 200, Woden ACT 2606
Australia
Phone: 1300 651 010
International Callers: +61-2 6283 2999
Facsimile: +61-2 6283 7999
Email: assist@ipaustalia.gov.au
Website: www.ipaustalia.gov.au

Your Ref: 736931:GMT:FDP

Examiner's report no. 2 on patent application no. 2004226374
by Terumo Kabushiki Kaisha

Last proposed amendment no. 2

Dear Madam/Sir,

Thank you for the reply of 24 April 2009 to the last report. My report is based on the specification as if amended by the statement of proposed amendments filed with that reply and dated 23 April 2009. I have considered it and believe that there are lawful grounds of objection to the application as proposed to be amended. These grounds of objection are:

4. The invention defined in at least claim 1 is not novel and does not involve an inventive step when compared with the following prior art document that discloses all the essential features of the invention claimed:

US 2003/045893 (GINN, 6 March 2003)

This document was cited from the ISR established for this application. It discloses a clip for closing a defect such as a patent foramen ovale preferably constructed from an elastic material. The clip is delivered using a catheter and is held against it bias during implantation. Once the bias is removed the two tines of the clip move away from each other to become implanted in either side of the defect, as demonstrated in Figure 6.

I apologise for any inconvenience resulting from your application not being considered within the time limit set out in our Customer Service Charter.

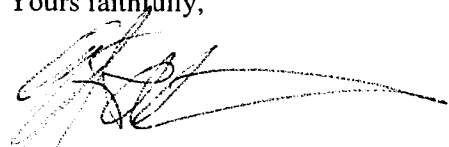
You have until 16 July 2010 to overcome all my objection(s) otherwise your application will lapse.

You will need to pay a monthly fee for any response you file after 12 months from the date of the first report.

You will also need to pay any annual continuation fees that apply. These will normally be first due five years from the filing date. Please note however that earlier commencement dates apply for divisional applications.

Information about fees may be obtained by phoning 1300 651 010.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Emma Francis', with a long horizontal flourish extending to the right.

EMMA FRANCIS

Patent Examination B

Melbourne Patent Examination Centre

Phone: (03) 9935 9631